



REPORT TO COUNCIL

DATE: 18 NOVEMBER 2021

1 ITEM NUMBER: C12/11/21

2 SUBJECT

ESTABLISHMENT OF COUNCIL'S GOVERNANCE STRUCTURES

UKUMISELWA KWEZAKHEKO ZOBURHULEMENTE ZEBHUNGA

STIGTING VAN DIE RAAD SE REGERINGSBESTUURSTRUKTURE

3. DELEGATED AUTHORITY

In terms of delegation

This report is for

Committee name :

The Executive Mayor together with the Mayoral Committee (MAYCO)

Council

4 DISCUSSION

The purpose of the report is for Council to consider the best approach to establishing and adopting a governance structure for the City of Cape Town.

Section 160(1)(a) empowers a Municipal Council to make decisions on all the powers and the performance of all the functions of a municipality. A Municipal Council may therefore appoint committees from among its members to assist it in the performance of its duties and exercise of its powers, and may establish such committees as it deems necessary, to achieve the effective and efficient performance of any of its functions.

Council previously, in terms of Section 8(h) of the Municipal Structures Act 117 of 1998 (MSA), adopted an Executive Mayoral system, combined with Subcouncils and ward participatory mechanisms.

The governance structure previously adopted, inter alia comprised of committees established in terms of Sections 79 and 80 of the MSA, as well as other committees which were considered necessary to give effect to the performance of Council functions. The attached Annexure A lists all Council committees previously adopted as part of that governance structure.

In terms of Section 160(8) of the Constitution of the Republic of South Africa, committees need to be constituted in a manner that allows parties and interests reflected within the Council to be fairly represented. Council should therefore consider proportional representation of parties on the committees to be established as part of its governance model to comply with this legislation.

In regard to Section 79 of the Municipal Structures Act:

“(1) A Municipal Council may –

- a) establish one or more Committees necessary for the effective and efficient performance of any of its functions or the exercise of any its powers;*
- b) appoint the members of such a Committee from among its members;*
- c) dissolve a Committee at any time;*

(2) The Municipal Council –

- a) must determine the functions of a Committee;*
- b) may delegate duties and powers to it;*
- c) must appoint the chairperson;*
- d) may authorize a Committee to co-opt advisory members who are not members of the Council within the limits determined by the Council;*
- e) may remove a member of the Committee at any time; and*
- f) may determine a Committee’s procedure.”*

Section 80 of the Municipal Structures Act sets out the following:

"80. Committees to assist executive committee or executive mayor -

- (1) If a municipal council has an executive committee or executive mayor, it may appoint in terms of section 79, committees of councillors to assist the executive committee or executive mayor.*
- (2) Such committees may not in number exceed the number of members of the executive committee or mayoral committee.*
- (3) The executive committee or executive mayor--*
 - (a) appoints a chairperson for each committee from the executive committee or mayoral committee;*
 - (b) may delegate any powers and duties of the executive committee or executive mayor to the committee;*

(c) *is not divested of the responsibility concerning the exercise of the power or the performance of the duty; and*

(d) *may vary or revoke any decision taken by a committee, subject to any vested rights.*

(4) *Such a committee must report to the executive committee or executive mayor in accordance with the directions of the executive committee or executive mayor."*

As set out in the attached Annexure A, Council previously also established the following committees to comply with specific legislative requirements:

- Disciplinary Committee:- established in terms of Schedule 1 of the Municipal System Act 32 of 2000 (hereinafter referred to as "the Systems Act"), which relates to the Councillors' Code of Conduct, and would give effect to monitoring the requirements as set out in this schedule
- Municipal Public Accounts Committee (MPAC):- established as a Section 79 Committee, further in terms of section 32(2) of the Local Government: Municipal Finance Management Act, 56 of 2003, referred to as "the MFMA", and regulation 74 of the Municipal Budget and Reporting Regulations. In terms of this legislation, a municipality must recover unauthorised, irregular or fruitless and wasteful expenditure unless the expenditure is, after investigation by council committee, certified by the council as irrecoverable and written off by the council.
- Civilian Oversight Committee:- Established in terms of Section 62 of the South African Police Services Act, this committee works closely with the City's committee responsible for safety and security of its citizens.

Council is required in terms of section 53(1) of the Systems Act to define a specific role and area of responsibility for each political structure.

It is proposed that Council gives consideration to the governance model it wishes to adopt for the term.

4.1 Financial Implications x None

Opex

Capex

Capex: New Projects

Capex: Existing projects requiring additional funding

Capex: Existing projects with no

Additional funding requirements

4.2 Policy and Strategy Yes No

4.3 Legislative Vetting Yes No

4.4 Legal Implications Yes No

Section 79 of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998);

Section 80 of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998);

In terms of Section 160(8) of the Constitution of the Republic of South Africa, such committees need to be constituted in a manner, which allows parties and interests reflected within the Council to be fairly represented.

Section 79 of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998);

Section 80 of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998);

In terms of Section 160(8) of the Constitution of the Republic of South Africa, such committees need to be constituted in a manner, which allows parties and interests reflected within the Council to be fairly represented.

4.5 Staff Implications Yes No

4.6 Risk Implications Yes No

4.7 POPIA Compliance Yes It is confirmed that this report has been checked and considered for POPIA compliance.

5 RECOMMENDATIONS

It is recommended that Council gives consideration to establishing a governance model which will provide for effective and efficient performance of its powers and functions.

IZINDULULO

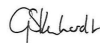
Kundululwe ukuba IBhunga malithathele ingqalelo ukumiselwa kwendlela ethile (imodeli) engolawulo apho iyakuthi ibonelele ngendlela yokusebenza esebenzayo nefanelekileyo, ngokwamagunya neisebenzi yayo.

AANBEVELINGS

Daar word aanbeveel dat die Raad oorweging skenk aan die instel van 'n regeringsbetuursmodel wat voorsiening maak vir die effektiewe en doeltreffende uitvoering van sy bevoegdhede en funksies.

ANNEXURE

Annexure A: List of Committees of Council adopted during the previous term of Council

NAME	<i>Rehana Razack</i>
CONTACT NUMBERS	021 400 1246
E-MAIL ADDRESS	Rehana.Razack@capetown.gov.za 
DIRECTORATE	Corporate Services
FILE REF NO	

Gareth Morgan Digitally signed by Gareth Morgan
Date: 2021.11.11 15:54:04 +02'00'

ACTING ED: CORPORATE SERVICES

NAME Gareth Morgan Comment:

TEL 021 4001297 Supported for onward transmission to Council

DATE 11 Nov 2021

REPORT COMPLIANT WITH THE PROVISIONS OF COUNCIL'S DELEGATIONS, POLICIES, BY-LAWS AND ALL LEGISLATION RELATING TO THE MATTER UNDER CONSIDERATION.

LEGAL COMPLIANCE

NON-COMPLIANT


NAME **Sarah Sanders** Digitally signed by Sarah Sanders
Date: 2021.11.11 21:03:04 +02'00'

TEL _____

DATE _____

Comment:

Certified as legally compliant based on the contents of the report

 Digitally signed by Lungelo Mbandazayo
Date: 2021.11.12 10:59:53 +02'00'

CITY MANAGER

NAME LUNGLO MBANDAZAYO Comment:

TEL _____

DATE _____

Annexure A

to

Report on Establishment of Council's Governance Structures

The following committees formed part of the governance model adopted by the previous Council.

Committees established in terms of Section 79 of the Municipal Structures Act 117 of 1998

- 1) Community Services and Health
- 2) Corporate Services
- 3) Economic Opportunities and Asset Management
- 4) Energy and Climate Change
- 5) Finance
- 6) Human Settlements
- 7) Safety and Security
- 8) Spatial Planning and Environment
- 9) Transport
- 10) Urban Management
- 11) Water and Waste
- 12) Leadership and Development
- 13) Homeless Agency
- 14) Rules and Ethics
- 15) Municipal Public Accounts Committee (MPAC)

Committees established in terms of Section 80 of the Municipal Structures Act 117 of 1998

- 1) Future Planning Infrastructure Planning Committee (FUTCOM)
- 2) Water Resilience Advisory Committee

Committee established in terms of Section 62 of the Municipal Systems Act 32 of 2000

- General Appeals Committee

Committee established in terms of Schedule 1 of the Municipal Systems Act 117 of 1998

- Disciplinary Committee

Committee established in terms of the SAPS Act 1995

- Civilian Oversight Committee (CIVOC)